

USPTO Customer No. 25280
Serial No: 10/748,627

Inventor(s): Danielson et al
Case No: 5465A

REMARKS

Claims 1-3 are amended. Claims 4-14 have been added.

Applicant thanks the Examiner for his kind attention during the interview on November 2, 2004. This Amendment is a follow up to issues discussed during the interview.

Obviousness Rejection

Claims 1-3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Matsushita in view of Greshes. Further, these claims also are rejected under section 103 in light of General Electric Company, WO 01/19921 (hereafter GE '921, or "GE").

Matsushita does not disclose the use of two additive compounds combined as bluing agents. The claims of the invention are limited to the use of at least two colorants that are capable of acting as bluing agents, that when applied to an article, result in transmission of blue light by the article, and the absorption of other wavelength light bands -- such as yellow or red -- as examples. Greshes also does not disclose such bluing agents. Thus, the combination of Matsushita and Greshes does not disclose even the primary elements of the invention. Thus, no *prima facie* case of obviousness is indicated by such a combination.

The Office Action indicates that GE '921 discloses polyester films employing dyes including Macrolex Violet B or Macrolex 3R which are useful components of this patent application, commonly known as solvent dye 13 and solvent dye 36, respectively.

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The examiner further suggests that the dyes are known in the art and the reference clearly contemplates the disclosed dyes to be used either singly or in combination.

All elements of a claim must be taught or suggested by the prior art in order to support a *prima facia* case of obviousness. Applicants respectfully submit that the cited reference does not teach or suggest the claimed invention as amended. The cited reference teaches the use of many different dyes as colorants, but not the specific invention as claimed.

The GE reference does not specifically teach the addition of two different blue light absorbing compounds (two different colorants that act as bluing agents) to form a combination colorant/ bluing agent in a thermoplastic or polyester, having the absorption peak in the range of 565 to 590 nm.

GE discloses many dyes, including for example reds, several different yellows, and orange, which do not meet the limitations of the claims. At least about 100 or more different combinations are possible, and only one of such combinations would be a combination of the two violet dyes mentioned. Thus, without a specific teaching of this exact combination, there is no obviousness of the specific combination of the invention. Only using improper hindsight analysis is one led to the specific combination of the invention.

Further, GE fails to teach the concentration ranges provided in the amended claims. Specifically, in GE, "The amount of component B in the compositions of the invention is typically an amount effective to impart coloration thereto. This is most often an amount in the range of about 0.01-5% by weight base on total resin." (GE '921: page 12, lines 15-17).

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As claimed, the present composition is used at levels effective merely as a bluing agent. The inventive combination toner does not deleteriously affect transparency -- in fact, it assists in providing transparency by its anti-yellowing effects. As noted in the specification, such a combination can be added in very low amounts, from about 0.001 to about 100 ppm of the total parts of polyester. The level of loadings does not contribute an excess in blue or violet discoloration to the target resin. The amount of colorant added in the cited reference (0.01-5%) clearly is outside the claimed range of .001 to about 100 ppm in the instant claims. The GE reference is directed to making colored bottles, not clear bottles having little or no color.

Moreover, it is not obvious to modify the cited reference to use such levels since the desired coloration would not be achieved. As pointed out at MPEP § 2143, an invention cannot be considered obvious if the required modification would render the prior art unsuitable for its intended purpose.

Terminal Disclaimer

A Terminal Disclaimer to obviate the obviousness double patenting rejection will be submitted upon the indication of allowable subject matter, to avoid any such issues with relation to pending application 10/140,700.

Conclusion

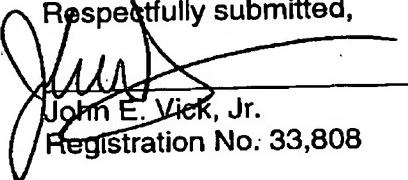
It is believed that the above claims patentably define over the prior art record and that the application is in complete condition for allowance. Should any issues remain after consideration of this Amendment, however, the Examiner is invited and encouraged to telephone the undersigned at his convenience.

USPTO Customer No. 25280
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Fee Authorization: In the event that there are additional fees associated with the submission of these papers, Applicant hereby authorizes the Commissioner to withdraw those fees from our Deposit Account No. 04-0500.

Extension of Time: In the event that additional time is required to have the papers submitted herewith for the above referenced application to be considered timely, Applicant hereby petitions for any additional time required to make these papers timely and authorization is hereby granted to withdraw any additional fees necessary for this additional time from our Deposit Account No. 04-0500.

Respectfully submitted,

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